

## REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 6-8) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recognized that the present invention, as now claimed, provides a method for removing unwanted matter, including weeds, moss and grass, from joints between pavements that includes providing an implement that has an elongate handle carrying a blade at one end of the handle and with the blade extending along an axis at an angle of  $30^{\circ}$  –  $55^{\circ}$  to the axis of the handle, and with an apex at a forward end thereof. The blade is bent, or folded, along its longitudinal axis resulting in the blade having a concave side and a V-shape or dish-shape in cross-section. The implement is retained, or held, by the handle with the handle being inclined downwardly at a steep angle away from the user of the implement and with the blade extending forwardly at a steeper angle than the angle of the handle, with the concave side of the blade facing toward the user. By having the apex of the blade becoming engaged in a joint between pavements and drawing the implement toward the user, the user is able to draw the blade along the joint for removing unwanted matter from the joint.

By orienting the blade at an angle of between  $30^{\circ}$  –  $55^{\circ}$  (and preferably at an angle in the range of  $35^{\circ}$  to  $45^{\circ}$ ) with respect to the axis of the handle, the blade will easily “ride” over the joints running transversely to the joint along which the implement is being drawn, rather than becoming snagged by the unintentional engagement of transverse

joints. The claimed angular arrangement also provides for a continuous operation of the implement and, consequently, yields a more efficient means for removing unwanted matter, such as weeds, moss, grass, etc., from between the joints between pavements. In addition, the inclusion of the V-shaped, or dish-shaped, cross-sectional blade further enhances the removal of unwanted matter, because the blade can penetrate further into the joint between pavements, thereby removing not simply more weeds, moss or grass, but, more importantly, their roots.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient method for removing unwanted matter, including weeds, moss and grass, from joints between pavements, that includes utilizing an implement having a handle and blade attached thereto with the blade being oriented at an angle of between  $30^{\circ}$  –  $55^{\circ}$ , relative to the axis of the handle, so that the blade will “ride” easily over the joints running transversely to the joint along which the implement is being drawn, rather than becoming snagged by the unintentional engagement of transverse joints, either disclosed or suggested.

By the present amendment, Applicant has canceled original Claims 1-5 and has substituted therefor new Claims 6-8, which now recite a “method for removing unwanted matter, including weeds, moss and grass, from joints between pavements” using the implement disclosed in Applicant’s Specification. New Claim 6 represents the single independent claim now pending in the instant patent application.

Turning now, in detail, to an analysis of the Examiner’s prior art rejection, in the

first Office Action the Examiner has rejected the subject matter of Claim 1 and several dependent claims as being anticipated, pursuant to 35 U.S.C. §102(b), by Poindexter, U.S. Patent No. 884,416, on the contention that Poindexter discloses an implement capable of removing weeds, moss and other matter from the joints of pavements, which includes an elongate handle having a blade at one end thereof, and with the blade appearing to extend along the axis at an angle of 54° to the axis of the handle and being formed with an apex at its forward end, thereby anticipating Applicant's original Claim 1.

In reply to the Examiner's prior art rejection – and as such anticipation rejection is now pertinent to new method Claims 6-8 – a detailed analysis of Poindexter finds that this citation discloses an implement for cutting sods of grass away from the edges of paths by positioning the implement on the ground, so that the blade thereof extends forwardly along the surface on the ground with the implement taught by Poindexter then being pushed forwardly to cut away the sods.

In contrast to that disclosed and suggested by Poindexter, the presently claimed method includes use of an implement that is held by its handle, with the handle being inclined downwardly away from the user and with the blade extending forwardly at a steeper angle with its concave side facing towards the user. The apex of the blade, as now recited in the claimed method, engages in a joint between pavements, so that the implement can be drawn towards the user. By drawing the blade along the joint between pavements, unwanted matter, such as weeds, moss and grass, is efficiently removed from the joint.

By orientating the blade at an angle of between 30°-55°, with the respect to the axis of the handle, the blade is ensured to easily “ride” over the joints running transversely to the joint along which the implement is being drawn, rather than becoming snagged. This arrangement also provides for a continuous operation of the implement and, thus, a more efficient means for removing moss and/or grass from between the joints. The inclusion of the V-shaped, or dished, cross-sectional blade also enhances the removal of the weeds, moss or grass, since the blade can penetrate further into the joint between pavements, thereby removing more weeds moss and/or grass and, more importantly, their roots.

Consequently, because of the distinct manner of use of the implement of the presently claimed method, along with the construction of the implement used in the claimed method, which allows for easy and thorough removal of unwanted matter within a joint between pavements, which removal is not obstructed by transversely-aligned joints of the pavements, Applicant respectfully submits that Poindexter neither anticipates, nor renders obvious, the presently claimed invention.

Applicant further wishes to discuss the combination of Poindexter, taken in view of Kober, German Utility Patent Application No. DE 201 15 300 U1 (originally made of record in the International Search Report of Applicant’s corresponding P.C.T. application for this §371 U.S. National Phase application), which combination of prior art has been applied by the European Patent Office during Applicant’s prosecution of his “parallel” EPO patent application:

Kober discloses an implement handle carrying a blade at one end thereof, the blade extending at an angle of  $65^{\circ}$  to the axis of the handle and being formed with an apex at its forward end. This reference also discloses a method of operating the implement for removing weeds and sods of grass from between pavements and the path. The differences between the present invention, as now claimed, and Kober are: (1) the angular orientation of the blade with respect to the handle portion; and (2) the fact that the blade of the claimed invention is folded along its longitudinal axis, so as to form a V-shaped or dished X-section.

Referring to the illustration accompanying this *Amendment*, a blade directed forwardly and downwardly at an angle of  $65^{\circ}$  to the handle section, as is the case with Kober, DE 201 15 300 U1, will actually present itself as a rearwardly projecting handle when in use. This is because, in normal use, the handle will be held at an angle of approximately  $35^{\circ}$  to the ground. The blade will therefore be presented to the joint between pavements at an angle of approximately  $10^{\circ}$  to the vertical. The problem inherent in this arrangement is that the blade will dig into the joint and will easily become snagged, especially at the points where the joint intersects a transverse joint.

The present invention, as now claimed, overcomes this problem by orientating the blade at an angle of between  $30^{\circ}$ - $55^{\circ}$  with the respect to the axis of the handle. This angular arrangement ensures that the blade will easily ride over the joints running transversely to the joint along which the implement is being drawn, rather than becoming snagged. The claimed arrangement also provides for a continuous operation of the imple-

ment and, therefore, a more efficient means for removing weeds, moss and/or grass from between the joints. As previously discussed, the inclusion of the V-shaped or dished cross-sectional blade further enhances the removal of the unwanted matter, since the blade can penetrate further into the joint between pavements, thereby removing more weed, moss or grass, as well as removing their roots.

There is submitted to be no suggestion in Kober that such an angular arrangement of the blade, relative to the handle, will provide the smooth manner of operation of the implement as is attained with the implement provided for use in the claimed method. In fact, Kober teaches only one angular arrangement of the handle and blade, namely 65°, and therefore teaches away from the claimed invention, which lies, in part, in the appreciation that the angle of the blade to the handle is critical to ensure that snagging does not occur.

Combining the teachings and suggestions of Kober, which should properly be viewed as contrary to those of the claimed invention, with the teachings and suggestions provided by Poindexter would not yield the present invention, as now claimed,

It is, therefore, respectfully submitted that neither Poindexter nor Kober, considered individually, anticipate nor render obvious the presently claimed method, and that combining Poindexter with Kober would yield an implement far removed from the implement provided for use in the claimed method for removing unwanted matter from joints between pavements. Consequently, withdrawal of the Examiner's prior art rejection of the first Office Action is respectfully requested.

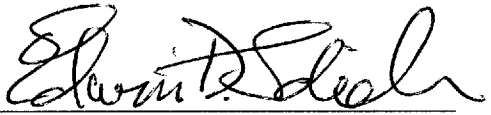
Concerning, finally, the remaining references cited by the Examiner, but not applied in any rejection of Applicant's claims, such additional references have been carefully considered, but are not deemed to adversely affect the patentability of the present invention, as now claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 6-8) recite a novel and efficient method for removing unwanted matter, including weeds, moss and grass, from joints between pavements, that includes utilizing an implement having a handle and blade attached thereto with the blade being oriented at an angle of between 30° – 55°, relative to the axis of the handle, so that the blade will "ride" easily over the joints running transversely to the joint along which the implement is being drawn, rather than becoming snagged by the unintentional engagement of transverse joints, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection

and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

DONALD GLANMOR HOWELLS

By 

Edwin D. Schindler  
*Attorney for Applicant*  
Reg. No. 31,459

**PTO Customer No. 60333**

Five Hirsch Avenue  
P. O. Box 966  
Coram, New York 11727-0966

(631)474-5373

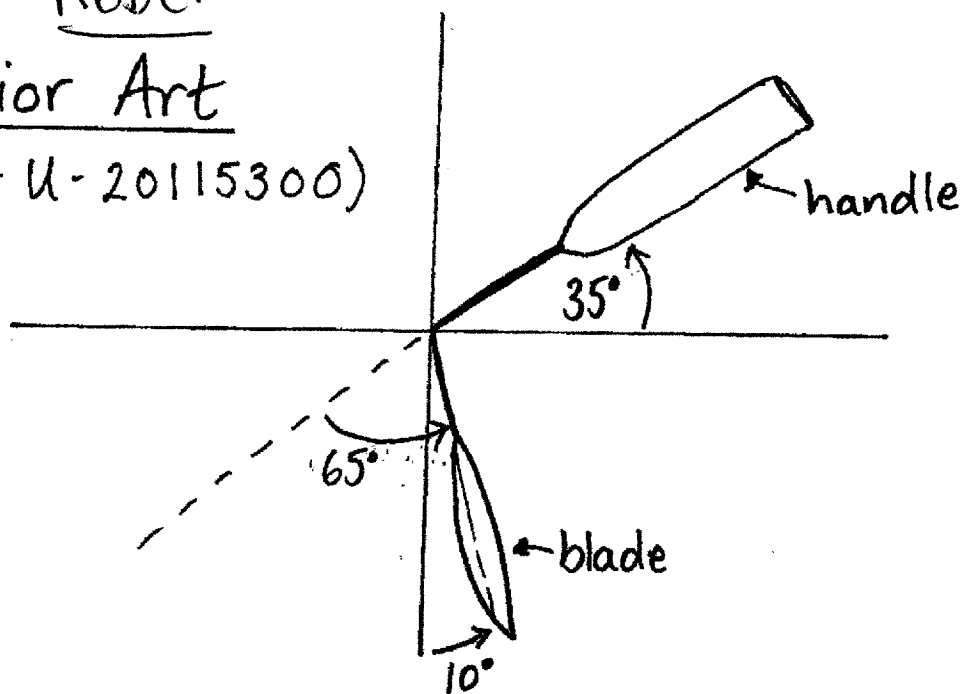
November 1, 2007

- Enc.: 1. Petition for Two-Month Extension of Time for Response;
2. Sketch showing angular arrangement of implement used in present invention and prior art of Kober, DE 201 15 300 U1 (2 sheets);
3. New Power of Attorney and Correspondence Address Indication Form; and,
4. EFT for \$230.00 (Two-Month Extension Fee)

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.



Kober  
Prior Art  
(DE-U-20115300)



Howells

Present  
Invention

